

Dear Jim,

8/14/86

As I told you, when I've been able to I've been trying to clean up the great accumulation on my desk so that I may have space to work on the appeal and so that there will be less probability of anything getting lost in a stack. I've been responding to long-overdue letters, filing, etc. I've come to a letter I wrote Mark Lynch that I think it not inappropriate to let you have. I think you are aware that we had some earlier correspondence of which I didn't send you copies as well, I'm sure, of which I did send you copies.

When I wrote this letter I did not know that he was at Covington, Burling, which you told me later. I got no response. Then a long time passed and one day, I think in May, I got a call from Susan Schaffer (approx). She told me that the letter had been there, not forwarded to him and not responded to by anyone there. She appears to have come across it when cleaning up her own stuff because she also was getting ready to leave ACLU. She was apologetic, pleasant, offered to do what she could do, and she told me that making copies of what Smith cited was more than they could then do. So, from that, it is apparent that she did read my letter. However, she said nothing about the other things in it and I then had no recollection of what they were. I do not think that some of the other things I asked represented much time and effort.

As I think I wrote you recently, I wrote Mary at Covington quite some time ago and I've had no response. I told him, as I think I told you I did, about the new evidence when I got it and wanted it used on appeal. He said what surprised me, that he'd use it on remand. Only he had not agree to represent me other than on appeal. So, what I wrote him about at Covington is that I'd like to say, only if it would not be embarrassing to him, that he'd said he would use it on remand and thus I can invoke the excusable neglect provision of Rule 60(b). I would still like to and I still do not want to embarrass him.. However, with my letter not returned, and I always wrote him using a window envelope and my printed return address so I believe he got it, I am inclined to feel that if this is an argument I should make and if it turns out that it does embarrass him, it is his own fault. Particularly because if there was a one-year limit only, and I know that applies to the first three clauses, he also should have known that and that it had to be presented to the district court. What do you think?

I've still never met him in person. I think he was in ~~the~~ an appeals courtroom years ago when I was there and you pointed him out but we've never spoken except by phone. When we seemed to get along OK. He also seemed not to resent what I wrote him when he was off on his CLick and when he told me that my recollections of days long ago, of New Deal lawyers and the ACLU of that time, he said he would like to come up and talk to me more about those matters. I invited him but he never did.

I do not draw any other conclusions.

As I glanced at this particular stack, I now notice that the next thing in it is a carbon of my 5/30 letter to Shaffer in response to her letter to me of 5/28, which has attached a copy of ~~the letter to the court clerk of~~ her letter to the court clerk of the day before and I now see that this is what led her to respond to my 3/11 letter more than two months later. They'd sent her to papers to file for appeal and she returned them, saying they no longer represented me. Copies are indicated to me and Mark, but she didn't say Mark was no longer with the ACLU.

The then ACLU letterhead has only two staff counsel on it, those two, so they now have none or new people.

Also in that stack is the enclosed carbon of a letter I wrote Bud when you were away and hadn't told me how to get in touch with what Bernie later identified as Cjristic Institute for me. I wrote then again, having heard nothing....I've now only two desk stacks left! But others the only place I have to spread any papers out.

Best,

Harold